



## **ZONING ADMINISTRATOR NOTICE OF DECISION**

**Date:** February 16, 2011  
**Applicant:** Best Recycle, LLC  
**Case No.:** PCC-10-070  
**Address:** 1169 Third Avenue  
**Project Planner:** Michael W. Walker

Notice is hereby given that on February 16, 2011 the Zoning Administrator considered Conditional Use Permit (CUP) application PCC-10-070 filed by Best Recycle, LLC ("Permittee/Operator") requesting approval to operate a small mobile recycling collection center ("Project"). The Project is located at 1169 Third Avenue ("Project Site"). The Project Site is zoned Central Commercial, Precise Plan (CCP) by the Chula Vista Municipal Code (CVMC), and is designated Mixed Use Residential (MUR) by the General Plan. The Project is more specifically described as follows:

The recycling center use consists of a single 8' x 20' cargo container that will be parked within a 300 square foot lease area located to the rear of an existing, vacant two-story commercial building. Pursuant to CVMC Section 19.58.345, the center is within a convenience zone identified by the state of California Department of Resources under the provisions of the California Beverage Container Recycling and Litter Reduction Act of 1986. Pursuant to CVMC Section 19.58.345(B) the center is considered a small recycling operation, which requires a CUP. The center will be setup to collect recyclable items that qualify for California Redemption Value (CRV) and operate from 9 a.m. to 5 p.m. Monday – Sunday.

The Environmental Review Coordinator has reviewed the proposed project for compliance with the California Environmental Quality Act and has determined that the project qualifies for a Class 3 categorical exemption pursuant to Section 15303 (new construction or conversion of small structures) of the State CEQA Guidelines. Thus no further environmental review is necessary.

The Zoning Administrator, under the provisions of Sections 19.14.030 and 19.58.345 of the Chula Vista Municipal Code, has conditionally approved said request based upon the following findings of facts as required by CVMC Section 19.14.080:

- 1. That the proposed use at this location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or the community.**

The proposed project will serve as a public convenience by providing a service necessary for recycling efforts in the area. The proposed use will not interfere with the existing uses in the area, or impact activities or conveniences enjoyed by the general public.

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2. **That such use will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.**

Provision of this particular business will provide a useful service by ensuring availability of such services to personal users. The center's location along Third Avenue allows for easy public access, and its location on the site will minimize impacts that may be a nuisance to the general public or other business operations in the area.

3. **That the proposed use will comply with the regulations and conditions specified in the code for such use.**

Approval of this conditional use permit is contingent on the Permittee and Property Owner's commitment to satisfy all conditions of approval and to comply with all applicable regulations and standards specified in the Municipal Code for recycling collection centers. The conditions of this permit are approximately in proportion to the nature and extent of the impact created by the use in that the conditions imposed are directly related to, and of a nature and scope related to the size and impact of the use. The Permittee has committed to implement and satisfy all conditions of approval for the proposed use, and will comply with all City zoning regulations, where applicable, as well as General Recycling Center regulations provided by General Services Environmental Services.

4. **That the granting of this Conditional Use Permit will not adversely affect the General Plan of the City or the adopted plan of any government agency.**

The proposed use, as conditioned, is in conformance with the City of Chula Vista General Plan and Zoning Ordinance. Furthermore, the use will not adversely affect the policy and goals of the General Plan or other adopted governmental plan.

BASED ON THE FINDINGS ABOVE, THE ZONING ADMINISTRATOR hereby approves Conditional Use Permit PCC-10-070, as described above subject to the following conditions and operational modifications:

- I. **Prior to the issuance of any permits required by the City of Chula Vista for the use of the subject property in reliance upon this approval, the Permittee shall satisfy the following requirements:**

- A. The Property Owner and the Permittee shall execute this document by making a true copy of this Notice of Decision and signing both this original notice and the copy on the lines provided below, said execution indicating that the Property Owner and Permittee have each read, understood and agreed to the conditions contained herein, and will implement same. Upon execution, the true copy with original signatures shall be returned to the Development Services Department. Failure to return the signed true copy of this document within 30 days shall indicate the Property Owner/Permittee's desire that the project, and the corresponding application for building permits and/or a business license, be held in abeyance without approval.

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Signature of Representative

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Date

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Signature of Authorized Property Owner

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Date

**Planning Conditions:**

1. The Permittee shall obtain a business license for the recycling business and a sign permit prior to locating any sign on the premises

**Engineering Conditions:**

2. The Permittee shall complete the appropriate storm water forms per the City of Chula Vista's Development Storm Water Manual to determine the appropriate Best Management Practices (BMPs) for the use.
3. If the Permittee is required to obtain a building permit for required site improvements that exceed \$33,762.11, then the Permittee will also be required to process a construction permit to construct missing, or damaged street improvements along the frontage of the property. These street improvements include, but are not limited to the following:
  - a. Removal and replacement of any broken curb, gutter or sidewalk as determined by the City Engineer.
  - b. All sidewalks, pedestrian ramps, and driveways that do not comply with the City of Chula Vista's Design Standards and ADA requirements.

**II. Prior to occupancy or use of the site in reliance on this use permit:**

4. The Permittee shall permit a final inspection of the recycling center by the Development Services Department staff to ensure that the conditions of approval listed in the conditions above have been met.
5. The Permittee shall remove the trailer and vehicles and other equipment not associated with the recycling center from the premises within 30 days from the conditional use permit approval date.

**Fire Department Condition:**

6. The Permittee shall provide one fire extinguisher at the recycling center.

**III. The following on-going conditions shall apply to the subject property as long as it relies upon this approval.**

7. The Permittee shall maintain and operate the Project in accordance with the approved plans for PCC-10-070, date stamped on February 16, 2011, which includes the site plan and photographs on file in the Planning Division, and conditions contained herein.

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8. The Permittee shall maintain the hours of operation of the recycling collection center from 9:00 a.m. to 5:00 p.m., Monday through Sunday. Removal and replacement of the recycling container shall occur during hours of operation, and at least one employee shall be present on-site.
  9. Complaint(s) regarding the Project for any reason, and any alleged violation of the Municipal Code or conditions of approval of this Conditional Use Permit, which have been formally submitted to the Code Enforcement Division, but which have not been resolved to the satisfaction of the Director of Development Services, will cause this use permit approval to be reconsidered pursuant to CVMC Section 19.14.270. This procedure may result in a public hearing before the City Zoning Administrator to consider continuance, modification, revocation, or payment of applicable fines, as determined by the Zoning Administrator.
  10. The Permittee shall ensure that employees supervise the recycling collection center during all hours of operation.
  11. The Permittee shall strictly enforce standard policy that the recycling collection center and the immediate surrounding area are kept free of trash and debris.
  12. The Permittee shall ensure that all recycling materials are covered, and no recyclables or other items are stored outside the recycling container overnight.
  13. The Permittee shall allow the site to be inspected three (3) months from the approval date of this conditional use permit to check for conformance with project plans and conditions of approval and to respond to complaints from the residents as may be necessary. The Permittee shall make any and all remedial measures required by staff to keep the project in conformance with project plans and conditions. After the initial three-month inspection, if the City receives the same complaints, the conditional use permit will be scheduled for revocation proceedings in accordance with CVMC Section 19.14.270. This conditional use permit shall expire on February 16, 2016, five (5) years from the date of this Zoning Administrator approval. The Applicant may request an extension 30 days prior to expiration date from this conditional use permit approval.
  14. The Permittee is required to implement Best Management Practices (BMPs) to the maximum extent practicable to prevent the discharge of pollutants into storm drain systems. City inspectors may require additional BMPs if selected BMPs are determined to be inadequate or ineffective.
  15. The Permittee is required to maintain outdoor areas clean and free of trash and other pollutants by practicing good housekeeping measures including:
    - Keeping the parking, recycling, and storage areas clean and orderly. Remove debris in a timely fashion.
    - Providing an adequate number of trash receptacles.
    - Providing a suitable container for emptying water bottles and soda cans, etc. before recycling. Do not empty such containers on the center or into storm drains.

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- Cleaning out and cover litter receptacles frequently to prevent spillage
  - Routinely sweep and collect litter and dispose in the trash
  - Using dry cleaning methods (e.g., sweeping, vacuuming) instead of hosing recycling areas. Power washing is permitted only if wash water is collected and disposed in the sanitary sewer
  - Not allow non-storm water discharges to the storm drain
  - Having spill kits available at the center at all times
  - Cleaning up spills immediately, and appropriately dispose of spilled materials and absorbents
  - Preventing vandalism or illegal dumping on or near the center

16. The Permittee shall adhere to the following general recycling center conditions to the satisfaction of the Environmental Services Program Manager:

- a. Permittee shall maintain a written record and make an annual report of refuse/recyclables purchased, received or collected to the Environmental Services Program Manager. The report shall be made on a form acceptable to the City Manager or designee and include but not be limited to: Characterization by materials type, tonnage, destination (processing, end use or disposal) and total customers. The report shall be delivered to the Environmental Services Program Manager no more than 30 days following the end of the calendar year. The report may be cumulative for all Chula Vista sites the Permittee may operate
- b. Permittee will be allowed to keep records for only three years, which is consistent with the State of California recording keeping for recycling centers.
- c. Clarification that this section will apply to only the CRV commodities (glass and plastic bottles, steel, tin and aluminum cans). Other commodities will be priced as market conditions dictate.
- d. Permittee shall not accept nor pick up mixed waste materials, garbage, rubbish or refuse as defined in the Chula Vista Municipal Code Chapters 8.24 and 8.25. The facility is being permitted as a recycling facility only and not a waste processing or transfer station. The total amount of waste generated at the facility may not exceed 10 percent of the monthly volumes.
- e. Permittee shall maintain sanitary premises at all times, shall contract with the City's franchise agent Allied Waste Services (619.421.9400) for removing, conveying and disposing of non-recyclable wastes generated at the facility and maintain a waste receptacle for use by Permittee's customers during all operating hours. Onsite compactors are for densifying recyclable materials and not for trash service.

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- f. Permittee shall cooperate with City recycling projects including but not limited to: promoting City sponsored solid waste management events and assist with the education of the general public. Permittee will not be required to spend money to support these projects, just investment of time to distribute informational materials to the customers. Permittee will not be required to have a drop-off bin on site for the collection of other recyclable materials, given the mobile nature of the buy back operation.
- g. Permittee shall develop and implement a policy that discourages theft of materials from other legitimate recycling and solid waste diversion programs, to include staff training on how to initiate discussion with the public informing them that the center will not accept stolen material including material in a shopping cart, curbside bin, refuse or recycling cart.
- h. During all hours of operation, the recycling center shall place a sign for the general public that explains the anti-theft policy as follows:
- Material placed for collection at the curb, in a multi-family or commercial bin for recycling may be removed and conveyed only by the City and/or its agents. At the City's request, Best Recycle must consider materials brought to it in City bins, or shopping carts to be stolen and will not accept the items.
  - Únicamente los empleados de Allied Waste Services y La Ciudad de Chula Vista cuentan con autorización para remover material reciclable dentro de cualquier contenedor puesto a colección. La Ciudad de Chula Vista reserva el derecho a solicitar que (Best Recycle) considere robado e inaceptable el material traído en contenedores pertenecientes a las agencias mencionadas o en carros de tiendas.
- i. Permittee shall submit a list of commodities accepted at the center to the Environmental Services Program Manager for approval. The list shall not be altered without prior written consent of the Program Manager. The City shall not unreasonably withhold a request by the Permittee to add or remove an item.
- j. Permittee will remove all improper disposal and shopping carts from the public thoroughfare that are within 500 feet of the entrance and/or exit of their operation, as frequently as necessary, to keep the public thoroughfare free of carts and debris - but no less than daily, at the close of each business day. The Permittee shall also arrange for the return of carts to the proper retailer and proper recycling or disposal of abandoned materials.

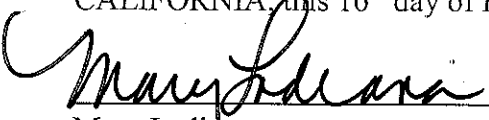
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- k. Permittee is aware of the regulations regarding signage within the City and will adhere to those regulations as well as all other local state and federal laws or regulations.
  - l. Permittee shall comply with Chula Vista Municipal Code 14.20 Storm Water Management and Drainage Control.
  - m. The Permittee shall implement storm water Best Management Practices (BMPs) and prohibit discharge of pollutants into the storm drainage system.
  - n. The Permittee shall implement liquid waste and spill response control measures at the facility by providing a liquid waste receptacle for patrons to discard excess waste from bottles, cans and other recyclable materials, and disposed of properly.
  - o. The Permittee shall keep spill response materials on hand such as dry absorbent material, brooms and dust pans, and shall sweep the facility, clean up any staining caused by spills and dispose of trash at the close of business each day.
  - p. The Permittee shall implement good housekeeping measures at the facility at all times and provide training to employees regarding storm water pollution prevention.
17. Approval of this Conditional Use Permit shall not waive compliance with all sections of Title 19 (Zoning) of the Municipal Code, and all other applicable City Ordinances in effect at the time of building permit issuance.
18. This Conditional Use Permit authorizes only the use specified in the application for PCC-10-070. Any new use or modification/expansion of the use shall be subject to the review and approval of the Zoning Administrator.
19. The Project shall maintain compliance with the City's Municipal Code noise standards. If the City finds that the Project does not meet the Municipal Code noise standards, the City may revoke or modify the permit.
20. The Permittee/Operator shall and does hereby agree to indemnify, protect, defend and hold harmless City, its Council members, officers, employees, agents and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorneys' fees (collectively, "liabilities") incurred by the City arising, directly or indirectly, from (a) City's approval and issuance of this conditional use permit, (b) City's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated herein. Permittee/Operator shall acknowledge their agreement to this provision by executing a copy of this

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conditional use permit where indicated, above. Permittee's/Operator's compliance with this provision is an express condition of this conditional use permit and this provision shall be binding on any and all of Permittee's/Operator's successors and assigns.

21. This Conditional Use Permit shall become void and ineffective if not utilized or extended within the time allotted in Section 19.14.260 of the Municipal Code.
22. Any violations of the terms and conditions of this permit may result in the imposition of civil or criminal penalties and/or the revocation or modification of this permit.
23. If any of the foregoing conditions fails to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted, deny, or further condition issuance of all future building permits, deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. Permittee or a successor in interest gains no vested rights by the City's approval of this Conditional Use Permit.

APPROVED BY ZONING ADMINISTRATOR OF THE CITY OF CHULA VISTA,  
CALIFORNIA, this 16<sup>th</sup> day of February 2011.

  
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Mary Ladiana  
Zoning Administrator